



STATE OF MISSISSIPPI
PHIL BRYANT
GOVERNOR
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY
TRUDY D. FISHER, EXECUTIVE DIRECTOR

August 27, 2013

CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Mr. Richard Johnson
Mississippi Phosphates Corporation
PO Box 848
Pascagoula, MS 395680848

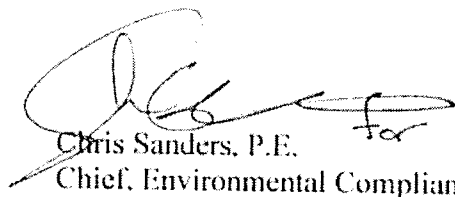
**Re: Mississippi Phosphates Corporation
Agreed Order No. 6305 13**

Dear Mr. Johnson:

Enclosed you will find a copy of Agreed Order No. 6305 13, which has been executed by the Executive Director of the Mississippi Department of Environmental Quality, Trudy Fisher, on behalf of the Mississippi Commission on Environmental Quality.

If you have any questions regarding your obligations under the enclosed order, please contact Chris Wells at (601) 961-5545.

Sincerely,



Chris Sanders, P.E.
for

Chief, Environmental Compliance and Enforcement Division

Enclosure
cc: Chris Wells

Agency Interest No. 2068
ENF20130002

BEFORE THE MISSISSIPPI COMMISSION
ON ENVIRONMENTAL QUALITY

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

COMPLAINANT

VS.

ORDER NO. 6305 13

MISSISSIPPI PHOSPHATES CORPORATION
PO BOX 848
PASCAGOULA, MISSISSIPPI 39568-0848

RESPONDENT

AGREED ORDER

On August 23, 2013, under the authority of Miss. Code Ann. § 49-2-13, the Executive Director of the Mississippi Department of Environmental Quality ("MDEQ") issued, on behalf of the Mississippi Commission on Environmental Quality ("Commission") Order No. 6302 13, which required Respondent to immediately cease and desist operation of its two sulfuric acid plants. The parties now agree as follows:

1.

Subject to the terms and conditions detailed below, the Commission agrees to allow Respondent to operate its Sulfuric Acid Plant No. 2 ("SAP No. 2") for a term of sixty (60) days, at which time the Commission and MDEQ will re-evaluate whether continued operation of SAP No. 2 will be allowed. As to Respondent's Sulfuric Acid Plant No. 3 ("SAP No. 3") the terms and conditions of Order No. 6302 13 shall remain in full force and effect. The Commission will consider lifting or modifying Order No. 6302 13 as it applies to SAP No. 3 if, and only when, Respondent demonstrates to the satisfaction of the Commission and MDEQ that repairs and/or

upgrades have been made to SAP No. 3 such that it may be operated under terms and conditions similar to those contained herein, which shall be addressed in a separate order.

2.

For the term of this Agreed Order, Respondent may operate SAP No. 2 under the following conditions:

- A. Respondent shall have all sulfuric acid plant operators read and sign a statement that they have read and understand the conditions for operating under this Agreed Order;
- B. Respondent shall not initiate start-up of SAP No. 2 when the following wind, weather and/or other atmospheric conditions exist, or are predicted to occur within 3 hours of startup:
 - 1. Wind direction is between 180 to 250 degrees and
 - 2. Wind velocity is 5 to 20 mph.
- C. Thirty minutes prior to any start-up allowed under this Agreed Order, Respondent shall provide oral notification to any person or entity known to be present within a half-mile radius of Respondent's sulfuric acid stack and to MDEQ. Within 24-hours after a startup, Respondent shall provide MDEQ documentation of persons/entities notified of a start-up in accordance with this subparagraph.
- D. Respondent shall continually monitor wind direction, speed and SO₂ concentrations from the SAP No. 2 stack and shall record in the daily log once every 30 minutes.
- E. Respondent shall monitor Accuweather for the forecasted wind direction and wind speed and shall record in the daily log book any predicted wind shifts that could impact offsite areas.
- F. Respondent's SAP No. 2 operators shall record any changes in operation and fugitive leaks in the daily log book and shall record the time and sign the log book.
- G. During times of wind, weather and/or other atmospheric conditions as described in Subparagraph A.1. Respondent shall increase monitoring of conditions that may create down wash of the stack emissions;

- H. Respondent shall engage, and pay for, the services of a third-party, mutually agreed to by MDEQ, to provide on-site and full-perimeter fence-line air monitoring for SO₂ and sulfuric acid, as well as on-site monitoring and observation of the operations of SAP No. 2.
1. If the third-party monitor detects an instantaneous reading of 1.0 (mg/ml) of SO₂ concentration at the fence line, the third-party observer shall immediately notify the sulfuric acid control room operator, who shall notify the Shift Supervisor and the Sulfuric Acid Manager by phone and shall notify the Environmental Manager and Plant manager by email. Respondent shall begin immediate investigation in the cause of the increase in fence line readings and shall record in the daily log book and make necessary repairs;
 2. If the third-party observer detects an instantaneous level of 2.0 (mg/ml) of SO₂ at fence line, then observer shall immediately notify the sulfuric acid control room operator who shall then immediately take action to reduce rate of sulfuric acid production to lower SO₂ emissions and shall notify the Shift Supervisor and Sulfuric Acid Manager by phone.
 3. If the third-party observer detects an instantaneous level of 2.5 (mg/ml) of SO₂, or any sulfuric acid detection, at fence line then the observer shall immediately notify the sulfuric acid control room operator to shut down. Respondent shall immediately begin shutting down the acid plant in a safe manner and shall notify the Environmental Manager and Plant Manager by phone. Respondent shall make necessary repairs during the shutdown period.
 4. The mutually-agreed third-party observer shall have the authority to, after consultation with MDEQ, order Respondent to cease operating SAP No. 2 when conditions arise, as a result of the operations of SAP No. 2, which pose a risk to human health. Respondent shall indemnify and hold MDEQ and the Commission harmless from any claims of injury which may be asserted by any person or entity not a party to this Agreed Order which may arise from, or be caused by, Respondent's operations of SAP No. 2.
- I. Respondent shall provide MDEQ a daily operations log which shall record, at a minimum, production rate for SAP No. 2, air emission data, wind direction and

other relevant weather conditions on half-hour increments, and fence-line air monitoring data on quarter-hour increments.

3.

Nothing in this Agreed Order shall limit the rights of MDEQ or the Commission in the event Respondent fails to comply with this Agreed Order. The Agreed Order shall be strictly construed to apply to those matters expressly resolved herein. The Commission further reserves its right to issue any other order, in accordance with Miss. Code Ann. 49-17-17(j), including any additional cease and desist order, it deems necessary to protect human health and the environment. Nothing contained in this Order shall limit the rights of Respondent pursuant to Miss. Code Ann. § 49-17-41 should the Commission or MDEQ take any Future Enforcement Action(s).

4.

This Order does not address fines, penalties, other sanctions, further actions and/or future violations of environmental laws, rules and regulations. Nothing contained in this Order shall limit the rights of the Commission to take enforcement or other actions against Respondent for violations cited in Order No. 6302 13, for violations not addressed herein, or for fines, penalties, or other sanctions for future violations of environmental laws, rules and regulations.

5.

In response to Order No. 6302 13, on August 23, 2013, Respondent submitted to the Executive Director of MDEQ a "Petition for Hearing and Appeal," by which Respondent sought an evidentiary hearing before the Commission, pursuant to Miss. Code Ann. §49-17-41. Without waiving any other rights preserved by that "Petition for Hearing and Appeal," by entering into this Agreed Order, Respondent waives any right it might have to the requested hearing being conducted, as to SAP No. 2, within the term of this Agreed Order.


6.

This Agreed Order represents the settlement and compromise of a disputed matter and may not be used by either party as an admission of liability or fault and is not admissible in any

administrative, civil, or criminal proceeding to prove liability for or invalidity of the claims contained within Order No. 6302 13.

ORDERED, this the 26 day of August, 2013.

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

BY: 
TRUDY D. FISHER
EXECUTIVE DIRECTOR
MISSISSIPPI DEPARTMENT OF
ENVIRONMENTAL QUALITY

AGREED, this the 26th day of August, 2013.

BY: [Signature]

TITLE: CEO

STATE OF Mississippi

COUNTY OF Madison

PERSONALLY appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named James L. Sherbert who first being duly sworn, did state upon his/her oath and acknowledge to me that ~~he~~ she is the Chief Executive Officer of MISSISSIPPI PHOSPHATES CORPORATION and is authorized to sign this Agreement.

SWORN AND SUBSCRIBED BEFORE ME, this the 26th day of August, 2013.

[Signature]
NOTARY PUBLIC

My Commission Expires:

